IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2855 of 1995

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GHANSHYAM SINH DHIRUBHAI & 1 - Petitioner(s)
Versus
GUJARAT REVENUE TRIBUNAL & ORS & 3 - Respondent(s)

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Appearance :

MR AJ PATEL for Petitioner(s) : 1 - 2.
MR HR PRAJAPATI for Respondent(s) : 1,
MS KIRAN PANDEY, AGP for Respondent(s) : 2 - 3.
MR PJ VYAS for Respondent(s) : 4, 4.2.1, 4.2.2, 4.2.3, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.3.5, 4.3.6, 4.3.7,4.3.8
None for Respondent(s) : 4.2.4

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 14/09/2007

ORAL JUDGMENT

This petition preferred under Articles 226 and 227 of the Constitution of India arises from the

judgment and order dated 13th March, 1995 passed by the Gujarat Revenue Tribunal in Revision Application No.TEN.B.A. 848/1992.

The matter at dispute is the land bearing Survey No.540 admeasuring 2-Hectare-37-Are-75-sq.meters of village Kasbara, taluka Khambhat. The predecessor of the respondent no.4, one Shivdan Bhojabhai Gadhavi was the tenant in the said land. The said land was sold to the said Shivdan Gadhavi on 9th April, 1953 for a sum of Rs.675=00. It is the case of the petitioners that on the same day, the said Shivdan Gadhavi sold the said land to one Tejabhai Ramsangbhai, the predecessor-in-title of the petitioners, for a sum of Rs.1,600=00. The said Tejabhai Ramsangbhai thus came into possession of the said land and continued to be in possession of the said land till his demise. Since his demise, the said land has devolved upon the petitioners. It is the case of the petitioners that since the said Shivdan Gadhavi was not satisfied with the sale price of Rs.1,600=00 paid to him, the matter was taken to the local panchayat. According to the dictate of the said

panchayat, the said Tejabhai Ramsangbhai paid an additional sum of Rs.3,001=00 to the said Shivdan Gadhavi. All the aforesaid transactions have been entered in the revenue record by appropriate entries. According to the petitioners, the said land was Inami land subject to the Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955. The said land was vested in the State Government under the said Act. By order dated 5th June, 1989 made by the District Collector, Kheda, the said land was granted to the then occupant the aforesaid Tejabhai Ramsangbhai. Nevertheless, in the Tenancy Case No.5/1989 initiated under Section 70(b) of the Bombay Tenancy and Agricultural Lands Act, 1947, by order dated 26th June, 1989 made by the Mamlatdar and ALT, the said Shivdan Gadhavi was held to be the tenant in possession of the said land. The respondent no.4 his successor was held to be entitled to purchase the said land. The said order of the Mamlatdar and ALT has been confirmed in appeal before the Deputy Collector and in revision application before the Gujarat Revenue Tribunal. Therefore, the present petition.

Pending this petition, the dispute between the parties has been amicably settled. The petitioners have agreed to part with southern half of the land in favour of the respondents, the successors-in-title of the aforesaid Shivdan Gadhavi. The respondents have agreed to accept southern half of the land in settlement of the dispute. The settlement has been reduced in writing duly signed by the parties and their advocates. The petitioners Ghanshyamsinh Dhirubhai and Keshavbhai Tejabhai are present in the Court and they admit the aforesaid settlement. The respondent no.4.4.6 Umedsing Jaskaran Gadhavi has signed the settlement on his behalf and on behalf of the respondents nos. 4.2 and 4.3 and the respondents nos.4.4.1 to 4.4.5. The respondents nos. 4.1 Udesinh Shivdan Gadhavi, 4.4.6 Umedsing Jaskaran Gadhavi, 4.4.7 Dadubhai Jaskaran Gadhavi and 4.4.8 Natubhai Jaskaran Gadhavi are present in the Court. They admit the aforesaid settlement entered into by them. The aforesaid settlement shall be maintained on the record.

In view of the aforesaid settlement, the petition is allowed. The impugned judgment and order dated 13th March, 1995 of the Gujarat Revenue Tribunal in Revision Application No.TEN.B.A. 848/1992 is quashed and set-aside. The proceedings initiated by the Deputy Collector under Section 84 of the Act is also quashed and set-aside. The concerned authority will make the mutation entries in respect of the disputed land Survey No.540 of village Kasbara, in accordance with the aforesaid settlement. Rule is made absolute in the above terms. The parties will bear their own cost.

In the event, the petitioners fail to handover possession of the southern half of the land Survey No.540 admeasuring 2-Acres-37.5-Gunthas as agreed, the respondents shall be at liberty to revive this petition.

(Ms. R.M.Doshit, J.)

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